

§ 1200.4

this section, encircled by the circumscription NATIONAL ARCHIVES TRUST FUND BOARD, with the date 1941 at the bottom center.



§ 1200.4 Authority to affix seals.

The Archivist of the United States and the Archivist's designees are authorized to affix the official seals, embossing seals, replicas and reproductions to appropriate documents, certifications and other material for all purposes authorized by this part.

§ 1200.6 Use of the seals.

(a) The seals are the official emblems of NARA and their use is therefore permitted only as provided in this part.

(b) Use by any person or organization outside NARA may be made only with prior written approval by NARA.

(c) Requests by any person or organization outside NARA for permission to use the seals must be made in writing to the Archivist of the United States, National Archives (N), Washington, DC 20408, and must specify, in detail, the exact use to be made. Any permission granted applies only to the specific use for which it was granted and is not to be construed as permission for any other use.

(d) Use of the NARA and the National Archives of the United States seals shall be primarily for informational purposes and for authentication of documents. The National Archives Trust Fund Board seal shall be used only for Trust Fund documents and publica-

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tions. The seals may not be used on any article or in any manner which may discredit the seals or reflect unfavorably upon NARA or which implies NARA endorsement of commercial products or services, or of the user's policies or activities.

(e) Falsely making, forging, counterfeiting, mutilating, or altering the official seals, replicas, reproductions or embossing seals, or knowingly using or possessing with fraudulent intent any altered seal is punishable under section 506 of title 18, United States Code.

(f) Any person using the official seals, replicas, reproductions, or embossing seals in a manner inconsistent with the provisions of this part is subject to the provisions of 18 U.S.C. 1017, which provides penalties for the wrongful use of an official seal, and to other provisions of law as applicable.

PART 1202—REGULATIONS IMPLEMENTING THE PRIVACY ACT OF 1974

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AUTHORITY: 44 U.S.C. 2104(a); 5 U.S.C. 552a.

SOURCE: 50 FR 27197, July 1, 1985, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 1202 appear at 54 FR 32067, Aug. 4, 1989.

§ 1202.1 Scope of part.

This part sets forth policies and procedures concerning the collection, use, and dissemination of records maintained by NARA which are subject to the provisions of the Privacy Act of 1974, 5 U.S.C. 552a. These policies and procedures govern only those records as defined in § 1202.4. Policies and procedures governing the disclosure and availability of NARA administrative records in general are in part 1250 of this chapter. This part also covers exemptions from disclosure of personal information; procedures for guidance of subject individuals in obtaining information and inspecting and disagreeing with the content of records; accounting for disclosures of information; special requirements for medical records; and fees.

§ 1202.2 Purpose.

This part implements the provisions of 5 U.S.C. 552a, popularly known as the "Privacy Act of 1974" (hereinafter referred to as the Act). This part prescribes procedures for notifying an individual of NARA systems of records which may contain a record pertaining to him or her, procedures for gaining access and contesting the contents of such records, and other procedures for carrying out the provisions of the Act.

§ 1202.4 Definitions.

For the purposes of this part 1202:

Access means a transfer of a record, a copy of a record, or the information in a record to the subject individual, or the review of a record by the subject individual.

Agency means agency as defined in 5 U.S.C. 552(e).

Disclosure means a transfer of a record, a copy of a record, or the information contained in a record to a recipient other than the subject individual, or the review of a record by someone other than the subject individual.

Individual means a citizen of the United States or an alien lawfully admitted for permanent residence.

Maintain includes maintain, collect, use, and disseminate.

NARA Privacy Act appeal official means the Deputy Archivist of the United States for appeals of denials of access to or amendment of records maintained in a system of records, except where the system manager is the Inspector General or the Archivist of the United States. The term means the Archivist of the United States for appeals of denial of access to or amendment of records in systems of records maintained by the Inspector General.

Record means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his or her education, financial transactions, medical history and criminal or employment history and that contains his or her name or an identifying number, symbol, or other identifying particular assigned to the individual, such as a fingerprint, voiceprint, or photograph.

Routine use means, with respect to the disclosure of a record, the use of

that record for a purpose which is compatible with the purpose for which it was collected.

Solicitation means a request by a NARA officer or employee that an individual provide information about himself or herself.

Statistical record means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by 13 U.S.C. 8.

Subject individual means the individual named or discussed in a record or the individual to whom a record otherwise pertains.

System manager means the NARA employee who is responsible for the maintenance of a system of records and for the collection, use, and dissemination of information therein.

System of records means a group of any records under the control of an agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifier assigned to that individual.

[50 FR 27197, July 1, 1985, as amended at 54 FR 32067, Aug. 4, 1989]

Subpart A—General Policy

§ 1202.10 Collection and use.

(a) *General.* Any information used in whole or in part in making a determination about an individual's rights, benefits, or privileges under NARA programs will be collected directly from the subject individual to the extent practicable. The system manager also shall ensure that information collected is used only in conformance with the provisions of the Act and these regulations.

(b) *Solicitation of information.* System managers shall ensure that at the time information is solicited the solicited individual is informed of the authority for collecting that information, whether providing the information is mandatory or voluntary, the purposes for which the information will be used, the routine uses of the information, and the effects on the individual, if any, of not providing the information. The Assistant Archivist for Management and

Administration shall ensure that forms used to solicit information are in compliance with the Act and these regulations.

(c) *Solicitation of social security number.* Before a NARA employee requests an individual to disclose his or her social security number, the officer or employee shall ensure that either:

(1) The disclosure is required by Federal law, or;

(2) The disclosure was required under a Federal law or regulation adopted before January 1, 1975, to verify the identity of an individual, and the social security number will become a part of a system of records in existence and operating before January 1, 1975.

If solicitation of the social security number is authorized under paragraph (c)(1) or (2) of this section, the NARA employee who requests an individual to disclose his or her social security number shall first inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority the number is solicited, and the uses that will be made of it.

(d) *Soliciting information from third parties.* A NARA employee shall inform third parties who are requested to provide information about another individual of the purposes for which the information will be used.

§ 1202.12 Standards of accuracy.

The system manager shall ensure that all records which are used by NARA to make a determination about any individual are maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to ensure fairness to the individual.

§ 1202.14 Rules of conduct.

All NARA employees involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, shall review the provisions of 5 U.S.C. 552a and the regulations in this part, and shall conduct himself or herself in accordance with the rules of conduct concerning the protection of personal information in the NARA Standards of Conduct.

§ 1202.16 Safeguarding systems of records.

The system manager shall ensure that appropriate administrative, technical, and physical safeguards are established to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained. Personnel information contained in both manual and automated systems of records shall be protected by implementing the following safeguards:

(a) Official personnel folders, authorized personnel operating or work folders, and other records of personnel actions effected during a NARA employee's Federal service or affecting the employee's status and service, including information on experience, education, training, special qualifications and skills, performance appraisals, and conduct, shall be stored in a lockable metal filing cabinet when not in use by an authorized person. A system manager may employ an alternative storage system providing that it furnishes an equivalent degree of physical security as storage in a lockable metal filing cabinet.

(b) System managers, at their discretion, may designate additional records of unusual sensitivity which require safeguards similar to those described in paragraph (a) of this section.

(c) System managers shall permit access to and use of automated or manual personnel records only to persons whose official duties require such access, or to subject individuals or their representatives as provided by this part.

§ 1202.18 Inconsistent issuances of NARA superseded.

Any policies and procedures in any NARA issuance which are inconsistent with the policies and procedures in this part are superseded to the extent of that inconsistency.

§ 1202.20 Records of other agencies.

(a) *Other agencies' records managed and administered by NARA.* Rules governing the maintenance of systems of

records of agencies other than NARA which are located in the National Archives of the United States and Federal Records Centers are in subchapter C of this chapter.

(b) *Current records of other agencies.* If NARA receives a request for access to records which are the primary responsibility of another agency, but which are maintained by or in the temporary possession of NARA on behalf of that agency, NARA shall refer the request to the agency concerned for appropriate action. NARA shall advise the requester that the request has been forwarded to the responsible agency. Records in the custody of NARA which are the primary responsibility of the U.S. Office of Personnel Management (OPM) are governed by the OPM rules promulgated pursuant to the Act.

§ 1202.22 Subpoenas and other legal demands.

Access to NARA systems of records by subpoena or other legal process shall be in accordance with the provisions of part 1250 of this chapter for administrative records and part 1254 of this chapter for accessioned records, FRC records, and donated historical materials.

Subpart B—Disclosure of Records**§ 1202.30 Conditions of disclosure.**

No NARA employee may disclose any record to any person or to another agency without the express written consent of the subject individual unless the disclosure is:

(a) To NARA employees who have a need for the information in the official performance of their duties;

(b) Required by the provisions of the Freedom of Information Act;

(c) For a routine use as published in a notice in the FEDERAL REGISTER;

(d) To the Bureau of the Census for uses pursuant to title 13 U.S.C.;

(e) To a recipient who has provided NARA with advance adequate written assurance that the record will be used solely as a statistical research or reporting record. The record shall be transferred in a form that is not individually identifiable. The written statement shall include as a minimum:

(1) A statement of the purpose for requesting the records; and

(2) Certification that the records will be used only for statistical purposes; these written statements shall be maintained as records. In addition to deleting personal identifying information from records released for statistical purposes, the system manager shall ensure that the identity of the individual cannot reasonably be deduced by combining various statistical records.);

(f) To the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government;

(g) To another agency or instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality or his or her other designated representative has made a written request to NARA specifying the particular portion desired and the law enforcement activity for which the record is sought;

(h) To a person showing compelling circumstances affecting the health or safety of an individual, not necessarily the individual to whom the record pertains (upon such disclosure, a notification must be sent to the last known address of the subject individual);

(i) To either House of Congress or to a subcommittee or committee (joint or of either House, to the extent that the subject matter falls within its jurisdiction);

(j) To the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office;

(k) To a consumer reporting agency in accordance with section 3711(f) of title 31; or

(l) Pursuant to the order of a court of competent jurisdiction.

§ 1202.32 Procedures for disclosure.

(a) Address all requests for disclosure of records pertaining to a third party to the NARA Privacy Act Officer (NAA), National Archives and Records Administration, Washington, DC 20408. Upon receipt of such request, NARA

shall verify the right of the requester to obtain disclosure pursuant to § 1202.30. Upon verification, the system manager shall make the requested records available. NARA shall acknowledge requests within 10 workdays and shall make a decision within 30 workdays, unless NARA notifies the requester that the time limit must be extended for good cause.

(b) If NARA determines that the disclosure is not permitted under § 1202.30, the Assistant Archivist for Management and Administration or the Inspector General (for records for which the Inspector General is the system manager) shall deny the request in writing. The requester shall be informed of the right to submit a request for review and final determination to the appropriate NARA Privacy Act Appeal Officer.

(1) Requests for review involving records for which the Inspector General is the system manager shall be addressed to the NARA Privacy Act Appeal Officer (N), National Archives and Records Administration, Washington, DC 20408.

(2) Requests for review involving all other records shall be addressed to the NARA Privacy Act Appeal Officer (ND), National Archives and Records Administration, Washington, DC 20408.

[57 FR 22430, May 28, 1992]

§ 1202.34 Accounting of disclosures.

(a) Except for disclosures made pursuant to § 1202.30(a) and (b), an accurate accounting of each disclosure shall be made and retained for 5 years after the disclosure or for the life of the record, whichever is longer. The accounting shall include the date, nature, and purpose of each disclosure, and the name and address of the person or agency to whom the disclosure is made.

(b) The system manager also shall maintain in conjunction with the accounting of disclosures:

(1) A full statement of the justification for the disclosures;

(2) All documentation surrounding disclosure of a record for statistical or law enforcement purposes; and

(3) Evidence of written consent by the subject individual to a disclosure.

(c) Except for the accounting of disclosures made to agencies or instrumentalities in law enforcement activities in accordance with § 1202.30 or of disclosures made from exempt systems (see subpart F of this part), the accounting of disclosures shall be made available to the individual upon request. Procedures for requesting access to the accounting are in subpart C of this part.

Subpart C—Individual Access to Records

§ 1202.40 Forms of requests.

(a) Individuals seeking access to their records or to any information pertaining to themselves which is contained in a system of records should notify the system manager or applicable NARA official at the address indicated in the FEDERAL REGISTER notice describing the pertinent system of records.

(b) The request shall be in writing and shall bear the legend "Privacy Act Request" both on the request letter and on the envelope. The request letter shall contain:

- (1) The complete name and identifying number of the NARA system as published in the FEDERAL REGISTER;
- (2) The full name and address of the subject individual;
- (3) A brief description of the nature, time, place, and circumstances of the individual's association with NARA; and
- (4) Any other information which the individual believes would help the system manager to determine whether the information about the individual is included in the system of records.

The system manager or other NARA official shall answer or acknowledge the request within 10 workdays of its receipt by NARA.

(c) System managers at their discretion, may accept oral requests for access to a NARA system of records, subject to verification of identity.

§ 1202.42 Special requirements for medical records.

(a) A system manager who receives a request from an individual for access to those official medical records which belong to the Office of Personnel Manage-

ment and are described in chapter 339 of the Federal Personnel Manual (medical records which are otherwise filed in the Official Personnel Folder), shall refer the pertinent system of records to a Federal Medical Officer for review and determination in accordance with this section. If no Federal medical officer is available to make the determination required by this section, the system manager shall refer the request and the medical reports concerned to the Office of Personnel Management for a determination.

(b) If, in the opinion of a Federal Medical Officer, medical records requested by the subject individual indicate a condition about which a prudent physician would hesitate to inform a person suffering from such a condition of its exact nature and probable outcome, the system manager shall not release the medical information to the subject individual nor to any person other than a physician designated in writing by the subject individual, his or her guardian, or conservator.

(c) If, in the opinion of a Federal medical officer, the medical information does not indicate the presence of any condition which would cause a prudent physician to hesitate to inform a person suffering from such a condition of its exact nature and probable outcome, the system manager shall release the information to the subject individual or to any person, firm, or organization which the individual authorizes in writing to receive it.

§ 1202.44 Granting access.

(a) Upon receipt of a request for access to non-exempt records, the system manager shall make such records available to the subject individual or shall acknowledge the request within 10 workdays of its receipt by NARA. The acknowledgment shall indicate when the system manager will make the records available.

(b) If the system manager anticipates more than a 10-day delay in making a record available, he or she also shall include in the acknowledgment specific reasons for the delay.

(c) If a subject individual's request for access does not contain sufficient information to permit the system manager to locate the records, the system

manager shall request additional information from the individual and shall have 10 workdays following receipt of the additional information in which to make the records available or to acknowledge receipt of the request and to indicate when the records will be available.

(d) Records will be made available for authorized access during normal business hours at the NARA offices where the records are located. Requesters should be prepared to identify themselves by signature (i.e., to sign the access log on the date of access and to produce other identification verifying the signature).

(e) Upon request, a system manager shall permit a subject individual to examine the original of a non-exempt record, shall provide the individual with a copy of the record, or both. Fees shall be charged only for copies requested by the individual and not for copies provided to the individual for the convenience of NARA.

(f) Subject individuals may request to pick up a record in person or to receive it by mail, directed to the name and address provided by the individuals in their request. A system manager shall not make a record available to a third party for delivery to the subject individual, except for medical records as outlined in § 1202.42.

(g) Subject individuals who wish to have a person of their choosing review, accompany them in reviewing, or obtain a copy of a record must, prior to the disclosure of their record, sign a statement authorizing the disclosure. The system manager shall maintain this statement with the record.

(h) The procedure for access to an accounting of disclosures is identical to the procedure for access to a record as set forth in this section.

§ 1202.46 Denials of access.

(a) A system manager may deny a subject individual access to his or her record only on the grounds that NARA has published rules in the FEDERAL REGISTER exempting the pertinent system of records from the access requirement. Exempt systems of records are described in subpart F of this part.

(b) Upon receipt of a request for access to a record which the system man-

ager believes is contained within an exempt system of records, he or she shall forward the request to the Assistant Archivist for Management and Administration. The system manager shall append to the request an explanation of the determination that the requested record is contained within an exempt system of records and a recommendation that the request be denied or granted.

(c) If the system manager is the Assistant Archivist for Management and Administration, that person shall retain the responsibility for denying or granting the request.

(d) If the system manager is the Inspector General, that person shall retain the responsibility for denying or granting the request.

(e) The Assistant Archivist for Management and Administration shall, in consultation with legal counsel and such other officials as deemed appropriate, determine if the requested record is in fact contained within an exempt system of records and:

(1) If the record is not contained within an exempt system of records, the Assistant Archivist for Management and Administration shall notify the system manager to grant the request in accordance with § 1202.44, or

(2) If the record is contained within an exempt system of records, the Assistant Archivist for Management and Administration shall:

(i) Notify the requester that the request is denied, including a statement justifying the denial and advising the requester of the right to judicial review of that decision as provided in § 1202.74; or

(ii) Notify the system manager to make the record available to the requester in accordance with § 1202.44, notwithstanding the inclusion of the record within an exempt system of records.

[50 FR 27197, July 1, 1985, as amended at 54 FR 32067, Aug. 4, 1989]

§ 1202.48 Appeal of denial of access within NARA.

(a) Requesters denied access in whole or part to records pertaining to them, exclusive of those records for which the system manager is the Archivist of the

United States, may file with NARA an appeal of that denial.

(1) Appeals involving records for which the Inspector General is the system manager should be addressed to NARA Privacy Act Appeal Official (N), National Archives and Records Administration, Washington, DC 20408.

(2) All other appeals should be addressed to NARA Privacy Act Appeal Official (ND), National Archives and Records Administration, Washington, DC 20408.

(b) Each appeal to the NARA Privacy Act appeal official shall be in writing. The appeal should bear the legend "Privacy Act—Access Appeal," on both the face of the letter and the envelope.

(c) Upon receipt of an appeal, the NARA Privacy Act appeal official shall consult with the system manager, the official who made the denial, legal counsel, and such other officials as may be appropriate. If the NARA Privacy Act appeal official, in consultation with these officials, determines that the request for access should be granted because the subject records are not exempt, the NARA Privacy Act appeal official shall immediately either instruct the system manager in writing to grant access to the record in accordance with § 1202.44 or shall grant access and shall notify the requester of that action.

(d) If the NARA Privacy Act appeal official, in consultation with the officials specified in paragraph (c) of this section, determines that the appeal should be rejected, the NARA Privacy Act appeal official immediately shall notify the requester in writing of that determination. This action shall constitute NARA's final determination on the request for access to the record and shall include:

(1) The reason for the rejection of the appeal; and

(2) Notice of the requester's right to seek judicial review of NARA's final determination, as provided in § 1202.74.

(e) The final NARA determination will be made no later than 30 workdays from the date on which the appeal is received by the NARA Privacy Act appeal official. The NARA Privacy Act appeal official may extend this time limit by notifying the requester in writing before the expiration of the 30

workdays. The NARA Privacy Act appeal official's notification shall include an explanation of the reasons for the extension of time.

(f) Denial of access by the Archivist to records for which the Archivist is the system manager shall constitute the NARA final determination in such instances. Requesters shall be given notice of their right to seek judicial review of the determination, as provided in § 1202.74.

[50 FR 27197, July 1, 1985, as amended at 54 FR 32067, Aug. 4, 1989]

§ 1202.50 Records available at a fee.

The system manager shall provide one electrostatic copy of a record to a requester at a fee of \$0.20 per page if NARA makes the copy or \$0.10 per page if the requester makes the copy on a NARA self-service copier.

[53 FR 12150, Apr. 13, 1988]

§ 1202.52 Prepayment of fees over \$25.

If the system manager determines that the estimated total fee is likely to exceed \$25, the system manager shall notify the individual that the estimated fee must be prepaid prior to NARA's making the records available. NARA will remit any excess amount paid by the individual or bill the individual for an additional amount if there is a variation between the final fee charged and the amount prepaid.

§ 1202.54 Form of payment.

Payment shall be by check or money order payable to the National Archives and Records Administration and shall be addressed to the system manager.

[53 FR 12150, Apr. 13, 1988]

Subpart D—Requests To Amend Records

§ 1202.60 Submission of requests to amend records.

Subject individuals who desire to amend any record containing personal information about themselves should write to the NARA system manager specified in the pertinent FEDERAL REGISTER notice concerning NARA's systems of records. A current NARA

employee who desires to amend personnel records should write to the Director of Personnel, National Archives (NAP), Washington, DC 20408. Each request shall include evidence of and justification for the need to amend the pertinent record. Each request should bear the legend “Privacy Act—Request To Amend Record” prominently marked on both the face of the request letter and the envelope.

§ 1202.62 Review of requests to amend records.

(a) The system manager shall acknowledge receipt of a request to amend a record within 10 workdays. If possible, the acknowledgment should include the system manager’s determination either to amend the record or to deny the request to amend as provided in § 1202.66.

(b) When reviewing a record in response to a request to amend, the system manager shall assess the accuracy, relevance, timeliness, and completeness of the existing record in light of the proposed amendment. The system manager shall determine whether the amendment is justified. With respect to a request to delete information, the system manager also shall review the request and existing record to determine whether the information is relevant and necessary to accomplish an agency purpose required to be accomplished by law or Executive order.

§ 1202.64 Approval of requests to amend.

If the system manager determines that amendment of a record is proper in accordance with the request to amend, he or she promptly shall make the necessary amendment to the record and shall send a copy of the amended record to the subject individual. Where an accounting of disclosure has been maintained, the system manager shall advise all previous recipients of the record of the fact that an amendment has been made and give the substance of the amendment. Where practicable, the system manager shall send a copy of the amended record to previous recipients. The system manager shall advise the Assistant Archivist for Management and Administration that a request to amend has been approved.

§ 1202.66 Denial of requests to amend.

(a) Except where the system manager is the Inspector General, if the system manager determines that an amendment of a record is improper or that the record should be amended in a manner other than that requested by an individual, the request to amend and the system manager’s determinations and recommendations shall be referred to the Assistant Archivist for Management and Administration. If the system manager is the Inspector General, that person shall retain the responsibility for granting or denying the request to amend.

(b) If the Assistant Archivist for Management and Administration, after reviewing the request to amend a record, determines to amend the record in accordance with the request, the Assistant Archivist promptly shall return the request to the system manager with instructions to make the requested amendments in accordance with § 1202.64.

(c) If the Assistant Archivist for Management and Administration, after reviewing the request to amend a record, determines not to amend the record in accordance with the request, the Assistant Archivist promptly shall advise the requester in writing of the decision. The denial letter shall state the reasons for the denial of the request to amend; include proposed alternative amendments, if appropriate; state the requester’s right to appeal the denial of the request to amend; and state the procedure for appealing.

[50 FR 27197, July 1, 1985, as amended at 54 FR 32068, Aug. 4, 1989]

§ 1202.68 Agreement to alternative amendments.

If the denial of a request to amend a record includes proposed alternative amendments, and if the requester agrees to accept them, the requester shall notify the NARA official who signed the denial letter. That official shall immediately instruct the system manager to make the necessary amendments in accordance with § 1202.64.

[54 FR 32068, Aug. 4, 1989]

§ 1202.70 Appeal of denial of request to amend a record.

(a) A requester who disagrees with a denial of a request to amend a record may file an appeal of that denial.

(1) If the denial was signed by the Assistant Archivist for Management and Administration, the requester shall address the appeal to the NARA Privacy Act Appeal Official (ND), Washington, DC 20408.

(2) If the denial was signed by the Inspector General, the requester shall address the appeal to the NARA Privacy Act Appeal Official (N), Washington, DC 20408.

(3) If the requester is an employee of NARA and the denial to amend involves a record maintained in the employee's Official Personnel Folder, as described in chapter 293 of the Federal Personnel Manual, the appeal should be addressed to the Assistant Director, Workforce Information Office, Compliance and Investigations Group, Office of Personnel Management, 1900 E Street, NW., Washington, DC 20415.

(b) Each appeal to the NARA Privacy Act appeal official shall be in writing and must be received no later than 30 calendar days from the date of the requester's receipt of a denial of a request to amend a record. The appeal shall bear the legend "Privacy Act—Appeal," both on the face of the letter and the envelope.

(c) Upon receipt of an appeal, the NARA Privacy Act appeal official shall consult with the system manager, the official who made the denial, legal counsel, and such other officials as may be appropriate. If the NARA Privacy Act appeal official, in consultation with these officials, determines that the record should be amended as requested, he or she immediately shall instruct the system manager to amend the record in accordance with § 1202.64 and shall notify the requester of that action.

(d) If the NARA Privacy Act appeal official, in consultation with the officials specified in paragraph (c) of this section, determines that the appeal should be rejected, the NARA Privacy Act appeal official immediately shall notify the requester in writing of that determination. This action shall constitute the NARA final determination

on the request to amend the record and shall include:

(1) The reasons for the rejection of the appeal;

(2) Proposed alternative amendments, if appropriate, which the requester subsequently may accept in accordance with § 1202.68;

(3) Notice of the requester's right to file a Statement of Disagreement for distribution in accordance with § 1202.72; and

(4) Notice of the requester's right to seek judicial review of the NARA final determination, as provided in § 1202.74.

(e) The NARA final determination shall be made no later than 30 workdays from the date on which the appeal is received by the NARA Privacy Act appeal official. In extraordinary circumstances, the NARA Privacy Act appeal official may extend this time limit by notifying the requester in writing before the expiration of the 30 workdays. The NARA Privacy Act appeal official's notification shall include a justification for the extension of time.

[50 FR 27197, July 1, 1985, as amended at 54 FR 32068, Aug. 4, 1989]

§ 1202.72 Statements of disagreement.

Upon receipt of a NARA final determination denying a request to amend a record, the requester may file a Statement of Disagreement with the appropriate system manager. The Statement of Disagreement shall include an explanation of why the requester believes the record to be inaccurate, irrelevant, untimely, or incomplete. The system manager shall maintain the Statement of Disagreement in conjunction with the pertinent record and shall include a copy of the Statement of Disagreement in any disclosure of the pertinent record. The system manager shall provide a copy of the Statement of Disagreement to any person or agency to whom the record has been disclosed only if the disclosure was subject to the accounting requirements of § 1202.34.

§ 1202.74 Judicial review.

Within 2 years of receipt of a NARA final determination as provided in § 1202.48 or § 1202.70, a requester may seek judicial review of that determination. A civil action must be filed in the

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Federal District Court in which the requester resides or has his or her principal place of business or in which the NARA records are situated, or in the District of Columbia.

Subpart E—Report on New Systems of Records and Alteration of Existing Systems

§ 1202.80 Reporting requirement.

(a) Prior to the establishment of a new NARA system of records or the alteration of an existing NARA system of records, the system manager shall notify the Assistant Archivist for Management and Administration of the proposed new system or alteration. The system manager shall include with the notification a complete description and justification for each system of records that the system manager proposes to establish or alter. If the Assistant Archivist for Management and Administration determines that the establishment or alteration of a system of records is in the best interest of the Government, the Assistant Archivist for Management and Administration will submit, no later than 60 calendar days prior to the establishment or alteration of a system of records, a report of the proposal to the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget for their evaluation of the probable or potential effect of the proposal on the privacy and other personal or property rights of individuals.

(b) The reports required by this regulation are exempt from reports control.

§ 1202.82 Federal Register notice of establishment of new system or alteration of existing system.

The NARA Assistant Archivist for Management and Administration shall publish in the FEDERAL REGISTER a notice of the proposed establishment or alteration of a system of records when:

(a) Notice is received that the Senate, the House of Representatives, and the Office of Management and Budget do not object to the establishment of a new system of records or to the alteration of an existing system of records, or

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(b) No fewer than 30 calendar days have elapsed from the date of submission of the proposal to the Senate, the House of Representatives, and the Office of Management and Budget without receipt by NARA of an objection to the proposal.

§ 1202.84 Effective date of new systems of records or alteration of an existing system of records.

Systems of records proposed to be established or altered in accordance with this subpart shall be effective no sooner than 30 calendar days from the publication of the notice required by § 1202.82.

Subpart F—Exemptions

§ 1202.90 Specific exemptions.

(a) The following NARA systems of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974;

(1) Investigation Case Files, NARA-23.

(2) Personnel Security Case Files, NARA-24.

(b) These systems of records are exempt:

(1) To the extent that the systems consist of investigatory material compiled for law enforcement purposes; however, if any subject individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence; and

(2) To the extent the systems of records consist of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualification for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the

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disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence.

(c) These NARA systems of records have been exempted to maintain the efficacy and integrity of investigations conducted pursuant to NARA's responsibilities in the areas of Federal employment, Government contracts, and access to security classified information.

Subpart G—Assistance and Referrals

§ 1202.100 Requests for assistance and referrals.

Requests for assistance and referral to the responsible system manager or other NARA employee charged with implementing these regulations should be made to the NARA Privacy Act Officer (NAA), National Archives and Records Administration, Washington, DC 20408.

[57 FR 22430, May 28, 1992]

PART 1206—NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION

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EDITORIAL NOTE: Nomenclature changes to part 1206 appear at 50 FR 15723, 15728, Apr. 19, 1985.

Subpart A—General

§ 1206.1 Scope of part.

This part prescribes the procedures and rules governing the operation of the grant program of the National Historical Publications and Records Commission.

[61 FR 5656, Feb. 13, 1996]

§ 1206.2 Definitions.

(a) The term *Commission* means the National Historical Publications and Records Commission or the Chairman of the Commission or the Executive Director of the Commission, acting on the Commission's behalf.

(b) The term *historical records* means record material having permanent or enduring value regardless of physical form or characteristics, including but not limited to manuscripts, personal papers, official records, maps, and audiovisual materials.

(c) In §§ 1206.36 and 1206.38, the term *State* means all 50 States of the Union, plus the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, Northern Mariana Islands, and the Trust Territories of the Pacific.